Supreme Court, U.S.
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No. 92-1923

(2)

In The

# Supreme Court of the United States

October Term, 1992

BERTRAM E. LACEY

*Petitioner,*

versus

THE DOW COMPANY, D/B/A/
DOW CHEMICAL U.S.A.

*Respondent.*

**Petition For Writ Of Certiorari**
**To The United States Court Of Appeals**
**For The Fifth Circuit**

## BRIEF IN OPPOSITION OF RESPONDENT THE DOW CHEMICAL COMPANY

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June 25, 1993

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## QUESTIONS PRESENTED

1. Would a reasonable employee who has been subject to no disciplinary action feel compelled to quit his job because he has been unsuccessful in attempting to get his employer to change marginal performance appraisals?

2. Even if the Civil Rights Act of 1991 applies retroactively, does a plaintiff alleging discrimination have any cognizable claim for compensatory and punitive damages when he has not filed a timely action under 42 U.S.C. §1981, and he has offered no proof of any acts of discrimination occurring within 180 days prior to the filing of an EEOC charge?

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No. 92-1923

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THE DOW COMPANY, D/B/A/
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*Respondent.*

**Petition For Writ Of Certiorari**
**To The United States Court Of Appeals**
**For The Fifth Circuit**

## BRIEF IN OPPOSITION OF RESPONDENT THE DOW CHEMICAL COMPANY

## STATEMENT OF THE CASE

In the action below, Lacey alleged that The Dow Chemical Company (hereinafter "Dow") discriminated against him on the basis of his race in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq.[1] Lacey also alleged that Dow violated 42

[1] Pursuant to Supreme Court Rule 29.1, Appendix A lists the parent company and non-wholly owned subsidiaries of The Dow Chemical Company.

U.S.C. §1981. Lacey alleged that he was forced to terminate his employment as a result of the unlawful behavior of Dow and its employees, Lacey's supervisors and fellow employees.

The district court dismissed Lacey's §1981 claim based on *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989). The Magistrate Judge heard Lacey's Title VII claim, rendering a Special Master's Report, which the district court adopted in its entirety, entering judgment in favor of Dow.

Lacey appealed the decision of the district court to the U.S. Fifth Circuit Court of Appeals, which rendered its opinion, without oral argument, on February 26, 1992, affirming the decision of the district court. The Fifth Circuit, among other reasons, held that Lacey was not constructively discharged and did not prove a *prima facie* case of racial discrimination under Title VII of the Civil Rights Act of 1964 against Dow. Lacey filed a *pro se* motion for extension of time in which to file for a rehearing, which was granted by the Fifth Circuit. Lacey then filed a motion for rehearing, which was denied on May 27, 1993. Lacey's petition for writ of certiorari was filed on May 27, 1993 in this Court.

## SUMMARY OF ARGUMENTS FOR DENYING WRIT

I. Petitioner does not challenge the standard that the district court and the Fifth Circuit used to conclude there was not a constructive discharge, but merely disputes the application of the constructive discharge standard to the facts in this case. This challenge of facts to

applicable settled law is not a valid reason for the U.S. Supreme Court to grant a writ of certiorari.

II. Petitioner does not correctly state the issue of constructive discharge in this case.(Petitioner's Brief at pp. 11-12) There was no finding by any of the lower courts that the petitioner resigned because of discrimination, but that he voluntarily resigned for other reasons.

III. Should this Court find that the Civil Rights Act of 1991 applies retroactively to the petitioner's purported claim under 42 U.S.C. §1981, the petitioner's claim under §1981 was time-barred when filed and should therefore not be considered.

IV. Should this Court find that the Civil Rights Act of 1991 applies retroactively to the petitioner's purported claim under Title VII, petitioner would still have no claim for compensatory and punitive damages because no act, other than petitioner's voluntary resignation, is alleged to have occurred within the 180 day time period prior to petitioner's filing of his charge of discrimination with the Equal Employment Opportunity Commission.

## ARGUMENT

**I. Petitioner does not challenge the standard that the district court and the Fifth Circuit used to conclude there was not a constructive discharge, but merely disputes the application of the constructive discharge standard to the facts in this case. This challenge of facts to applicable settled law is not a valid reason for the U.S. Supreme Court to grant a writ of certiorari.**

Rule 10 of this Court's rules provides that "[a] petition for writ of certiorari will be granted only when there are special and important reasons therefor." There are no special and important reasons justifying this Court's review of the lower courts' decisions in this case. Both courts below applied the facts in this case to the existing settled law with regard to constructive discharge. Only if this Court is interested in reviewing that standard should certiorari be granted.

As early as 1975, the Fifth Circuit Court of Appeals enunciated the standard in the circuit for finding constructive discharge by an employer. This standard has been followed consistently. *Jurgens v. E.E.O.C.*, 903 F.2d 386 (5th Cir. 1990), *Boze' v. Branstetter*, 912 F.2d 801 (5th Cir. 1990). The standard is generally if "the employer deliberately makes an employee's working conditions **so intolerable** that the employee is **forced** into involuntary resignation, then the employer has consummated a constructive discharge and is as liable for any illegal conduct involved therein as if it had formally discharged the aggrieved employee." *Jurgens*, 903 F.2d at 390; *Boze'*, 912 F.2d at 804 (emphasis added.)

In order for the plaintiff to prove what conditions are necessary to effect a constructive discharge, the Court in *Bourque v. Powell Elec. Mfg. Co.*, 617 F.2d 61 (5th Cir. 1980) established the following as the "reasonable employee" test:

> To find constructive discharge we believe that 'the trier of fact must be satisfied that the . . . working conditions would have been so difficult or unpleasant that a **reasonable person** in the employee's shoes would have felt compelled to resign.' (quoting *Alicia Rosado v. Garcia Santiago*, 562 F.2d 114 (1st Cir. 1977)). (emphasis added).

The Fifth Circuit has been helpful in defining who is a "reasonable employee." *Jurgens*, 903 F.2d at 390. Under this definition, for the plaintiff to have shown in this case that his resignation was made necessary by his working conditions, he would have had to show that a **reasonable person** would have felt that his actions were warranted by the circumstances. Plaintiff himself testified, at length, about his obsession with his job and job performance at Dow. In *Jurgens*, the Court found that "a simple discriminatory denial of promotion that cannot be reasonably construed as a **career-ending action** can not alone create such embarrassment or humiliation that the denial comprises a constructive discharge." The Court also found " . . . expectation of future discrimination in promotion involved a highly speculative forecast and, therefore was not an aggravating factor." *Jurgens*, 903 F.2d at 392. (emphasis added.)

In the present case, the evidence was undisputed that the plaintiff was never denied a promotion: he was well-paid and, consistently received pay increases; he was

never involuntarily transferred; he was never demoted; he was never threatened with termination. Indeed, when he announced his intent to resign, his supervisor encouraged him to stay with Dow. Clearly, a reasonable person would not feel **compelled** to quit under these circumstances. Plaintiff contends only that he received job evaluations which were less than he thought he deserved and that when he complained about the appraisals, they were not changed. These facts do not create the type of work environment which would cause a reasonable person to feel forced to quit.

In order for the plaintiff to have shouldered his burden with regard to showing a constructive discharge, he would have had to show that the workplace was intolerable because of the racial discrimination and animus that was practiced by his employer.

It is submitted that in this case, the plaintiff's working conditions were not intolerable, and thus he had a duty to act as a reasonable employee. Under the conditions, in *Boze', supra,* which are factually similar to this case, the Court found that a reasonable employee would have done one of two things prior to resigning, to mitigate his damages: – 1 – he could have completed the internal grievance process; and/or – 2 – he could have filed an E.E.O.C. complaint while retaining his job. As in *Boze',* plaintiff in this matter did not pursue filing a complaint with the E.E.O.C. while retaining his employment. The Court stated as follows:

> We have held that employees who oppose unlawful discrimination best serve the policies underlying Title VII that accords them legal protection, if they attack that discrimination

"within the context of existing employee relationships" *Bourque*, 617 F.2d at 66.

Plaintiff in this matter had the option to file a charge with the Equal Employment Opportunity Commission without resigning his job, and without fear of retribution therefor. He failed to pursue that option, and so cannot now say that he had no reasonable option but to resign.

**II. Petitioner does not correctly state the issue of constructive discharge in this case. (Petitioner's Brief at pp. 11-12) There was no finding by any of the lower courts that the petitioner resigned because of discrimination, but that he voluntarily resigned for other reasons.**

The Special Masters Report, which was generated by the Magistrate Judge and included in the Appendix to plaintiff's petition clearly enunciates the reasons he, as trier of fact, believed that petitioner resigned from his position at Dow. At pages 32a and 33a of petitioner's brief, the Magistrate Judge opined as follows:

> Here, the plaintiff was pursuing a career change rather than pursuing remedies available to him under Title VII to correct any prior discriminatory actions which might have been taken against him. In other words, the record supports a finding that the plaintiff chose to leave Dow when he did, before filing a charge of discrimination, because he wanted to avail himself of the opportunity to attend medical school rather than continue at Dow. There is nothing in the record to support a finding that the plaintiff would have been precluded from entering medical school at a later date. While there was some

> testimony by the plaintiff that he might return to engineering sometime in the future, there was no evidence or argument that the plaintiff wanted to be reinstated to his former position at Dow.

Thus, although plaintiff suggests that "this case presents an important issue [concerning constructive discharge] that this Court has yet to address". (Plaintiff's brief at 11-12), The issue articulated by plaintiff is not present in this case because he did not quit his job at Dow due to discrimination. He resigned because he wanted to pursue a career change and attend medical school. His attempt to raise an important legal issue is, therefore, based on facts not present in this case. And since he does not challenge the legal standard for constructive discharge applied by the lower courts, but rather only the application of facts to that standard, plaintiff has raised no issue warranting this Court's exercise of its discretionary review power.

**III. Should this Court find that the Civil Rights Act of 1991 applies retroactively to the petitioner's purported claim under 42 U.S.C. §1981, the petitioner's claim under §1981 was time-barred when filed and should therefore not be considered.**

Plaintiff also attempts to raise an important legal issue concerning the retroactive effect of the Civil Rights Act of 1991, an issue which this court has already agreed to resolve in *Landgraf v. USI Film Industries,* No. 92-757 and *Rivers v. Roadway Express;* No. 92-938. However, the Court's resolution of that issue in *Landgraf* and *Rivers* would have no effect on this case.

Petitioner resigned from his position with Dow in May, 1988. His petition was filed in the district court on October 19, 1989, approximately 17 months after his resignation. The law is clear that the time limits for filing a Section 1981 action are governed by the most analogous state statute of limitations. *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454 (1975). In Louisiana, the one year prescriptive period applicable to tort actions applies to actions brought under Section 1981. *See, e.g. Jackson v. PALA, Inc.*, 621 F. Supp. 1119 (M.D. La. 1985), *aff'd*, 787 F. 2d 586 (5th Cir. 1986); *Charles v. National Tea Co.*, 488 F. Supp. 270 (W.D. La. 1980); *Doucette v. Barthelemy*, 598 So.2d 600 (La. App. 4th Cir. 1992). The courts have also held that the filing of a charge of discrimination with the EEOC generally does not interrupt or toll the statute of limitations or prescriptive period on a Section 1981 action. *See Johnson, supra*, 421 U.S. at 465-66; *Charles, supra* 488 F. Supp. at 274: "The timely filing of an employment discrimination charge with the EEOC pursuant to Title VII of the Civil Rights Act does not toll the running of the limitation period applicable to an action based on the same facts brought under 42 U.S.C. §1981."

Thus, even should this Court conclude that the Civil Rights Act of 1991 is to be applied retroactively, the petitioner has no valid claim in this case under 42 U.S.C. §1981.

**IV. Should this Court find that the Civil Rights Act of 1991 applies retroactively to the petitioner's purported claim under Title VII, petitioner would still have no claim for compensatory and punitive damages because no act, other than petitioner's voluntary resignation, is alleged to have occurred within the 180 day time period prior to petitioner's filing of his charge of discrimination with the EEOC.**

In Louisiana, which is a nondeferral state, a charge of discrimination must be filed with the EEOC within 180 days after the alleged act of discrimination occurred. 42 U.S.C. §2000e-5(e)(1).

As this Court indicated in *United Air Lines, Inc. v. Evans*, 431 U.S. 553, 558 (1977), any act which is not made the basis of a timely charge of discrimination is nothing but "an unfortunate event in history which has no present legal consequences." There is no basis in evidence in this matter to conclude that there was any event which violated petitioner's rights under Title VII of the Civil Rights Act within the 180 days immediately preceding the filing of his charge with the EEOC on June 2, 1988. In fact, petitioner's former supervisor, Andy Rolf, whom the magistrate found was the only person who could have racially discriminated against the petitioner died in early January, 1988. At the time of his death Rolf was no longer the petitioner's supervisor. The only events reference in the Magistrate-Judge's report which occurred within the 180 day period were efforts by Dow co-employees to encourage and sympathize with petitioner's perceived problems. Therefore, even should this Court decide that the Civil Rights Act of 1991 should be applied retroactively, there is no "employment decision" adverse to the

petitioner occurring within the 180 day time period prior to his filing of an EEOC claim which would give rise to a compensable claim under Title VII.

Additionally, if this Court should find that the Civil Rights Act of 1991 is to be retroactively applied, it is respectfully submitted that petitioner has no claim for punitive and emotional distress damages. Under the provisions of the Civil Rights Act of 1991, compensatory and punitive damages are only recoverable under Title VII "provided that the complaining party cannot recover under section 1981 of this title." 42 U.S.C. §1981a(a)(1). Therefore, if the Civil Rights Act of 1991 applies retroactively, petitioner herein could have pursued remedies under §1981 and Title VII if he had filed his claims timely. His failure to file his Section 1981 claim timely should not prejudice Dow, and he cannot claim compensatory and punitive damages under Title VII based on the specific language of the Civil Rights Act of 1991 specifying that such damages are not available under Title VII when they could have been recovered in a §1981 action.

## CONCLUSION

It is respectfully submitted that this case is not appropriate for the grant of a writ of certiorari for the reasons enunciated above. However, should this Court be inclined to grant the writ, and only in that instance, Dow would acquiesce in the stay of these proceedings pending the Court's resolution of the issues presented in *Landgraf*

*v. USI Film Industries*, No. 92-757 and *Rivers v. Roadway Express*, No. 92-938.

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## APPENDIX A

## SUBSIDIARIES OF THE DOW CHEMICAL COMPANY

The following lists all companies in which The Dow Chemical Company has effective ownership of 50% or more of the voting securities. Not all of these companies are considered "significant subsidiaries" of The Dow Chemical Company for purposes of Rule 1-02(v) of Regulation S-X, nor are all "controlled" by The Dow Chemical Company.

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The Dow Chemical Company:
- Admiral Equipment Co.
- Admiral Equipment Japan Ltd.
- Arabian Chemical Company Limited (1)
- AWD Technologies, Inc.
- Boride Products, Inc.
- Compagnie des Services Dowell Schlumberger S.A. (2)
- DC Partnership Management Inc.
  - DowBrands L.P. (12)
- DCOMCO, Inc.
- DCU/LB TRUST (1)
- DVCA-21 Holding, C.A.
  - Dow Venezuela, C.A.
    - CV Services Ltd.
- Destec Energy, Inc.
  - Destec Holdings Inc.
  - Destec Ventures, Inc.
  - Louisiana Gasification Technology, Inc.
- Dexco Polymers (1)
- Dow A.G.
  - Dow Benelux Holding N.V.
    - Dow Benelux N.V.
      - Rofan Automation and Information Systems B.V.
    - Polyol International B.V.

Polyol Belgium N.V.
Dow Belgium
Dow Chemical Iberica S.A. (11)
DowBrands Espanola S.A.
Dow Danmark A/S
Dow Europe S.A.
Chimtrade (1)
Dow Export S.A.
Dow Turkiye A.S. (5)
Dow Hellas A.E.
Dow International Service Center N.V. (3)
Dow Norge A/S
Dow Turkiye A.S. (5)
Primera-Industria e Comercio Ltda.
Dow Austria Ges. mbH
Dow Chemical (Australia) Limited
Dow Chemical Canada Inc.
Dow Capital B.V.
Dow International Service Center N.V. (3)
Dow Pipeline Ltd.
DowBrands Canada Inc.
Dowell Schlumberger Canada Incorporated (2)
Fort Saskatchewan Ethylene Storage Limited Partnership (1)
Dow Chemical (China) Ltd.
Dow Chemical Company Limited
Cromarty Petroleum Company Limited (1)
Dow Trading Ltd.
Dow Chemical Delaware Corp.
Dow Chemical (Hong Kong) Limited
Dow Chemical Iberica S.A. (11)
Dow Chemical International Inc. (Panama)
Dow Chemical International Ltd.
Dow Chemical Thailand Limited
Dow Portugal, Productos Quimicos, Lda. (10)
Petroquimica-Dow S.A. (Petrodow)
Dow Chemical Japan Limited

Dow Chemical Korea Limited
Dow Chemical (NZ) Limited
Dow Chemical Overseas Capital N.V.
Dow Chemical Pacific Limited
  Ulsan Pacific Chemical Corporation
Dow Chemical (Singapore) Private Limited
Dow Credit Corporation
Dow Deutschland Inc.
  Dow Chemical Inter-American Limited
    Dow Quimica de Colombia S.A. (8)
  Dow Deutschland Anlagen GmbH
  Dow Hungary KFT
  Dow Turkiye A.S. (5)
  DowBrands Europe GmbH
  Epoxital S.R.L. (1)
  Safechem Umwelt Service GmbH
Dow Engineering Company
  Dow Engineering, Inc.
Dow Factoring Company S.A.
Dow Financial Holdings Inc.
  DowBrands L.P. (12)
  Dow Holdings Inc.
    Dow Corning Corporation (2)
    Dowell Schlumberger Corporation (2)
    Dowell Schlumberger Inc. (2)
    Marion Merrell Dow Inc. (9)
Dow France S.A.
  DowBrands France SA
Dow Hydrocarbons and Resources Inc.
  Cayuse Pipeline, Inc.
  Dow Intrastate Gas Company
  Dow Pipeline Company
  Midland Pipeline Corp
    Fort Saskatchewan Ethylene Storage Corporation (1)
  Promix System
Dow International B.V.

Dow Italia S.p.A.
  First Chemical Factoring SpA
Dow Kakoh Kabushiki Kaisha
Dow Mitsubishi Kasei Limited (1)
Dow Portugal, Productos Quimicos, Lda (10)
Dow Quimica Argentina S.A.
Dow Quimica Chilena S.A.
  Anticorrosivos Industriales Limitada (1)
Dow Quimica de Colombia S.A. (8)
Dow Quimica Mexicana S.A. de C.V.
Dow Quimica S.A.
  Dow Productos Quimicos Ltda.
    Mineracao e Quimica do Nordeste S.A.
      Merrell/Lepetit Ind. Comercio de Productos Farmaceuticos de Embalagens e Artefatos Plasticos Ltda. (4)
  Merrell/Lepetit Ind. Comercio de Productos Farmaceuticos, de Embalagens e Artefatos Plasticos Ltda. (4)
    Bramevik Comercio e Participacoes Ltda.
Dow Suomi OY
Dow Sverige AB
Dow Trading S.A.
Dow Turkiye A.S. (5)
Dow-United Technologies Composite Products Inc. (1)
DowBrands Inc.
  DowBrands L.P. (12)
El Dorado Terminals Company (1)
Essex Chemical Corporation
  Pioneer Pharmaceuticals, Inc.
Essex Specialty Products, Inc.
  Essex Specialty Products, Inc. (Canada)
  Expandite Essex Pty Limited (1)
  Gurit-Essex A.G. (2)
Etoxilados del Plata S.A. (1)
FilmTec Corporation

Great Western Pipeline Company, Inc.
Joliet Marine Terminal Trust Estate (1)
Latin American Pharmaceuticals, Inc.
  Laboratorios Lepetit de Mexico, S.A. de C.V.
  Lepetit International Inc.
Liana Limited
  Dorinco Reinsurance Company (1)
  Dorintal Reinsurance Limited (1)
  Timber Insurance Limited (1)
Lucky Epoxy Limited (1)
Marion Merrell Dow Inc. (9)
  Blue Ridge Labs
  Marion & Company
  Marion Merrell Dow (Canada) Inc. (6)
    Merrell Dow Pharmaceuticals (Canada) Inc.
      J.C.P. Laboratories Inc.
    Nordic Laboratories Inc.
      Canada Pharmacal Ltd.
    2862-5473 Quebec Inc.
      Nordic Merrell Dow Research Inc.
  Marisub, Inc.
  Marisub II, Inc.
  Merrell Dow Pharmaceuticals Inc.
    Biochimica Del Salento S.p.A.
    Gruppo Lepetit S.p.A.
      Gruppo Lepetit Trading Srl
      Hammer Pharma S.p.A.
    Marion Merrell Dow Consumer Products
    Marion Merrell Dow (Europe) A.G.
    Marion Merrell Dow Australia Pty. Ltd.
    Marion Merrell Dow (Canada) Inc. (6)
      Merrell Dow Pharmaceuticals (Canada) Inc.
        J.C.P. Laboratories Inc.
      2862-5473 Quebec Inc.
        Nordic Merrell Dow Research Inc.
      Nordic Laboratories Inc.
        Canada Pharmacal

Marion Merrell Dow GmbH
Henning Berlin GmbH (Berlin)
Henning Berlin Anlagen GmbH
Dynopharm GmbH Pharmaceutica
Henning Berlin Biochemie GmbH
Henning Berlin GmbH (Austria)
Marion Merrell Dow K.K
Marion Merrell Dow Limited
MDP (Holdings) Ltd.
Marion Merrell Dow (N.Z.) Limited
Marion Merrell Dow Puerto Rico Inc.
Marion Merrell Dow N.V./S.A.
Marion Merrell Dow S.A.
Merrell Dow France et Cie (SNC)
Marion Merrell Dow S.A.
Merrell Dow Pharmaceuticals International Inc.
Merrell Dow Pharmaceuticals Pacific Limited
Merrell Dow Portuguesa Socieda de Quimica, S.A.
NKY Distribution Center Inc.
P.T. Pacific Indomas Plastic Indonesia (1)
Productos Quimicos Peruanos S.A.
RH Acquisition Corp.
Marion Merrell Dow Inc. (9)
Rofan Services Inc.
Airco Generon Systems LP (1)
DH Compounding Company (1)
DowElanco
DowElanco China Ltd.
DowElanco International Ltd.
Dong Yang Elanco Co. Ltd. (1)
DowElanco Thailand Ltd.
United AgriSeeds, Inc.
DowElanco B.V.
DowElanco Argentina S.A.
DowElanco Australia Limited
DowElanco Canada Inc.
DowElanco Chile S.A.

DowElanco Danmark A/S
DowElanco De Columbia S.A.
DowElanco Export S.A.
DowElanco GmbH
DowElanco Iberica, S.A.
DowElanco Industrial Ltda.
DowElanco Italia S.r.L.
DowElanco Japan Limited
DowElanco Limited
DowElanco Malaysia Sdn Bhd
DowElanco Mexicana, S.A. de C.V.
DowElanco (NZ) Limited
DowElanco Pflanzenschutzmittel Vertriebs G.m.b.H.
DowElanco Pacific Ltd.
DowElanco S.A.
DowElanco Sverige AB
DowElanco Venezuela, C.A.
DowElanco Tarim A.S.
DowElanco Taiwan Ltd.
Elanco Ihara K.K. (1)
P.T. Pacific Chemicals Indonesia
Generon Systems (1)
Generon Systems A.G. (1)
Sumitomo Dow Limited (1)
Taiwan Dow Chemical Limited
Tecnica Petroquimica de Centro America S.A.
Tepeca Sociedad Anonima
The Cynara Company (7)
Zhejiang Pacific Chemical Corporation (1)

**APPENDIX B**

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

---

No. 92-3725

---

BERTRAM E. LACEY,

Plaintiff-Appellant,

versus

THE DOW COMPANY, d/b/a,
DOW CHEMICAL U.S.A.,

Defendant-Appellee.

---

Appeal from the United States District Court for the
Middle District of Louisiana

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**ON PETITION FOR REHEARING**

(MAY 27, 1993)

Before JOLLY, DUHÉ and BARKSDALE, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in above entitled and numbered cause be and the same is hereby denied

ENTERED FOR THE COURT:

/s/ John M. Duhé
United States Circuit Judge

REHG-4

CLERK'S NOTE:
SEE FRAP AND LOCAL
RULES 41 FOR STAY OF THE
MANDATE